

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

TUESDAY, THE 12TH DECEMBER 2006 / 21ST AGRAHAYANA 1928

WP(C).No. 24334 of 2006(V)

OPMV.280/1999 of MOTOR ACCIDENT CLAIMS TRIBUNAL, PALAKKAD

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PETITIONER:

PONNAN, S/O. VELUCHAMY, AGED 55 YEARS,
RESIDING AT POOLAPARAMBU, PALLASANA P.O.,
PALLASSANA VILLAGE, CHITTUR TALUK,
PALAKKAD DISTRICT.

BY ADV. SRI.BINOY VASUDEVAN

RESPONDENTS:

THE ORIENTAL INSURANCE CO. LTD.,
INDIAN MUTUAL BUILDING, 1ST FLOOR,
221, M.R.SQUARE, BANGALORE.

BY //

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 12/12/2006, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX:

EXT.P1: COPY OF ARGUMENT NOTE SUBMITTED BY RESPONDENT BEFORE THE TRIBUNAL

EXT.P2: COPY OF AFFIDAVIT PREFERRED IN SUPPORT OF APPLICATION TO RE-OPEN EVIDENCE AND TO ACCEPT ADDITIONAL WRITTEN STATEMENT

EXT.P3: COPY OF ORDER IN I.A.683/06 IN O.P.MV.280/99 DT.14.8.06

EXT.P4: COPY OF ORDER IN IA 712/06 IN O.P.MV.280/99 DT.14.8.06

//True copy//

SHW TO JUDGE.

M.SASIDHARAN NAMBIAR,J.

W.P.(C) .NO.24334 OF 2006

Dated 12th December 2006

JUDGMENT

Petitioner is claimant in a claim petition filed before Motor Accident Claims Tribunal, Palakkad. As per Exts.P3 and P4 orders Motor Accidents Claims Tribunal re-opened the evidence and permitted third respondent insurance company to file additional written statement. This petitioner is filed under Article 227 of Constitution of India challenging the said orders. Learned counsel appearing for petitioner vehemently argued that the orders are not speaking orders and though additional written statement is filed in effect it is an amendment of original written statement. Relying on the decision of Apex court in **Jayanthi Roy v. Dass Estate Private Limited (2002 (5) SCC 175)** it was argued that third respondent is not entitled to file additional written statement after four years from the date of filing of written statement and therefore the orders are to be quashed.

2. On hearing learned counsel appearing for petitioner I do not find any infirmity in the order warranting interference in exercise of the extraordinary jurisdiction of this court under Article 227 of Constitution of India. Arguments of learned counsel appearing for petitioner was that by allowing additional written statement, admission in the original written statement that petitioner was a passenger of the vehicle involved in the accident was taken away and therefore it should not have been allowed. Accident occurred in Karnataka. When the details were collected about the incident finding the necessary to make the record correct additional written statement was filed with petition to receive the same. Motor Accidents Claims Tribunal has exercised the wide discretion vested in it and received the written statement. In such circumstances, I find no reason to interfere with the orders passed by the Tribunal.

Writ petition is dismissed.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.